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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

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SUMMARY RECORD OF THE 1203rd MEETING

Held at the Palais des Nations, Geneva,
on Friday, 14 March 1997, at 10 a.m.

Chairman: Mr. BANTON

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The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Eleventh and twelfth periodic reports of Iraq (CERD/C/240/Add.3)

1. At the invitation of the Chairman, the members of the delegation of Iraq took seats at the Committee table.

2. Mr. al-AZAWI (Iraq), introducing the eleventh and twelfth periodic reports of Iraq, contained in a single document (CERD/C/240/Add.3), said that the delay in submitting the report was attributable to the abnormal situation in northern Iraq. Written law had existed in Iraq for over 3,000 years and minorities had always coexisted peacefully. The foreword to the report said that the question of democracy and human rights had played an important role in the thinking of Iraq's leaders since the 1968 revolution, and that the question of minorities, which had been neglected prior to the revolution, was treated as a priority. Efforts to combat racial discrimination were now based on firm constitutional and legal foundations, making it possible to ensure respect for the legitimate rights of minorities within the framework of national unity. A number of acts and decrees had been adopted to that end, including Act No. 33 extending autonomy to the region of Iraqi Kurdistan as from 11 March 1974, the Act establishing the Executive Council of the Autonomous Region of Iraqi Kurdistan, Revolution Command Council Decree No. 89 of 24 November 1970, protecting the cultural rights of the Turkomans, and Decree No. 251 of 1973 recognizing the cultural rights of Syriac-speaking citizens (report, paras. 3, 9, 6 and 7).

3. The report, which comprised eight chapters and an annex, reviewed all the measures adopted in Iraq since 1968, and in particular since the submission of the tenth report. Iraq had done its utmost to comply with the Committee's guidelines on the preparation of reports. The first chapter described the political structure of authority, i.e. the legislative, executive and judicial authorities. Chapter II briefly reviewed the various laws to combat racial discrimination and safeguard the rights of minorities. Chapter III described the measures taken by the Government to resolve the Kurdish question and grant autonomy to Kurdistan. In that regard, he referred in particular to articles 1, 2, 5 and 6 of the Autonomy Act (para. 29), whose purpose was to guarantee the cultural, social and political rights of the Kurds. The 1990 military intervention had very seriously undermined those rights.

4. Chapter IV of the report, on the cultural rights of the Turkomans and Syriac-speakers, described a number of measures that were intended to guarantee those rights and were still in effect. Chapter V described the measures taken by Iraq to discharge the international commitments it had made when it had acceded to the various instruments to combat racism and prohibit and punish racial discrimination at the national level. There were several provisions which punished any person guilty of acts contrary to the Convention.

5. Chapter VI enumerated the constitutional and legal provisions designed to protect the civil, political, economic and social rights of all citizens, including minorities. Chapter VII related to the legislative measures taken to protect individuals from any act of discrimination, including, in particular, the right to institute proceedings before the courts and to obtain compensation for discrimination. Lastly, chapter VIII described measures taken to combat racial discrimination in the fields of education, information and culture.

6. The annex to the report described the abnormal situation prevailing in northern Iraq on account of the foreign military intervention there, which was both a blatant violation of Iraq's sovereignty and integrity and a threat to regional security. The armed interventions by certain neighbouring States and the clashes between the various Kurdish factions had led to serious violations of the civilian population's rights. The Government had done its utmost to provide the population with food and medicines (which were seriously lacking in Iraq) and to ensure essential services. It had also endeavoured to continue the dialogue with the warring Kurdish parties and had invited them to find solutions in order to bring the situation in the autonomous region back to normal and to enable the population to exercise their legitimate rights within the framework of national unity. He pointed out that minorities other than the Kurds lived in northern Iraq.

7. The paramount issue, which it was impossible to ignore, was that of the serious violations still affecting the whole of the Iraqi people on account of the total economic embargo imposed on Iraq. The embargo was absolute because, even though Security Council resolution 986 (1995) had excluded food and medicines, the exemption had never been observed in practice because of the ban on exports of Iraqi oil and the freezing of Iraqi assets abroad. The consequences for the population were dramatic, as the Secretary-General of the United Nations had emphasized in 1995 in his report to the General Assembly. The Regional Director of WHO for the Middle East had stated at a press conference in April 1996 that the economic sanctions had driven Iraq back 50 years. Reference should also be made to the recommendations of several international conferences held under the aegis of the United Nations, and decision 1991/108, requesting all States and all international organizations to take urgent measures to prevent the death of thousands of persons, in particular children, which had been unanimously adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its forty-third session.

8. Both UNICEF (E/ICEF/1994/PL.2) and WHO (WHO/EHA/96.4) had described the catastrophic consequences of the health situation for children, more than 600,000 of whom had died in Iraq between 1990 and August 1995.

9. Basic infrastructure had been destroyed and there was a shortage of school supplies. He invited the members of the Committee to assess the actual situation of Iraq's population and children on the spot. A slow genocide, more dramatic than a swift genocide, was clearly under way. The agreement on the supply of food and basic medicines in exchange for oil was not yet being fully implemented because of deliberate impediments. However, all contracts for the sale of oil had been honoured. Payment for the shipments had been deposited in the banks specified in memorandum of understanding, but the

Sanctions Committee had only authorized payment of 9 out of 292 contracts. In his report to the Security Council (S/1997/206), the Secretary-General had said that he did not expect the food supplies to reach Iraq before April. The Iraqi people were despairing of ever receiving them. He commended the Committee's unfailing efforts in support of human rights throughout the world, and urged it to consider the situation of the Iraqi people in the light of the information he had provided. The embargo was having dire consequences for the fundamental rights of the whole of the Iraqi people, including the minorities.

10. Mr. WOLFRUM (Country Rapporteur) commended Iraq's efforts to meet its reporting obligations, in spite of its special and difficult situation. He listed the various sources of information he had used in preparing his report: a WHO report of March 1996 on the situation in Iraq; the report prepared by the Secretary-General in conformity with paragraph 11 of Security Council resolution 986 (1995) (S/1997/206); WHO press release No. 23 of 27 February 1997; the 1996 report of the Special Rapporteur of the Commission on Human Rights on the situation in Iraq (E/CN.4/1996/61); a report on the Kurds by Minority Rights Group International; the report of the Special Rapporteur of the Commission on Human Rights on the question of torture (E/CN.4/1996/35/Add.1); the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1995/36); various recommendations by the General Assembly and the Security Council; documents issued by several NGOs; and an interview with the Hamburg Orient Institute.

11. He appreciated that the embargo on Iraq was having serious consequences for its population, and had taken that fact into account in considering Iraq's report. Nevertheless, it should be noted that Iraq's economic situation had begun to deteriorate well before the Gulf war, notably on account of the fall in oil earnings. Many elements of the public and private infrastructure had been destroyed during the Gulf war, to the detriment, inter alia, of the population's health. It had been necessary to suspend vaccination programmes and there had been a considerable increase in the incidence of many diseases. Rationing had been instituted in 1990 and the population's protein and vitamin requirements were not being met. Food prices were extremely high for most families. Since 1993, the situation had worsened for most of the population, especially children, the number of whom admitted to hospital had increased 50 times since 1990. Infant mortality among children under five had increased sixfold.

12. He suggested to the delegation that in future it should take into account the Committee's guidelines on the preparation of reports, in order to make them easier to understand.

13. Paragraph 22 of the report (CERD/C/240/Add.3) stated that under the Constitution Iraq was a sovereign democratic republic. However, in his report on the situation of human rights in Iraq (E/CN.4/1996/61), the Special Rapporteur of the Commission on Human Rights emphasized that power was essentially vested in the President of the Republic, who was also the head of the Revolution Command Council. He would appreciate further information on the political power structure, and in particular on the provisions of Leading Party Act No. 142 of 1974.

14. Iraq's population was mainly composed of Arabs (75 to 80 per cent), Kurds (15 to 20 per cent), Turkomans, Assyrians and Chaldeans. Most of the population were either Shiite or Sunnite Muslims. There were also some Christians and a small number of Jews. Referring to chapter II of the report, describing legislative measures to safeguard the rights of minorities, he pointed out that the Convention referred not to minorities but to linguistic or ethnic groups. According to the Special Rapporteur on the situation of human rights in Iraq, the Assyrians, the Kurds and the Ma'dan were treated differently from the rest of the population. He asked whether Revolution Command Council Decree No. 89, of 24 November 1970, stipulating that the Turkoman language would be taught in primary schools, was implemented in practice. In that connection, the Committee was primarily interested in the application of legal instruments; it was not sufficient to cite them. He would also appreciate clarification of the information, provided by the Special Rapporteur on the human rights situation in Iraq, that the Government was endeavouring to Arabize some regions and allegedly obliging their inhabitants to leave their villages.

15. Referring to paragraphs 7, 8 and 32 of the report, he would welcome additional information on the implementation of Revolution Command Council Decree No. 251 of 1973, which recognized the cultural rights of Syriac-speaking citizens (Assyrians, Chaldeans and members of the East Syrian Church). According to the Special Rapporteur on the human rights situation in Iraq, many Assyrian families living in Baghdad were discriminated against. In addition, according to various sources, the Turkomans, Assyrians and other groups were being compelled to leave their villages. And the Government was allegedly still forcing the Kurds and Turkomans living in Mosul and Kirkuk to leave their places of residence. Mr. Frank, of the Hamburg Orient Institute, considered that the displacements could be explained by the discovery of oil in the region. Regarding the Kurds, he referred to paragraph 27 (c) and (d) of the report and asked whether the 1974 Acts granting autonomy to Iraqi Kurdistan and establishing the Iraqi Kurdistan Regional Legislative Council were implemented in practice.

16. As stated in paragraph 2 of the annex to the report, Iraq took the position that the purpose of the recognition of the rights of minorities should be application of the principle of non-discrimination among citizens, and not the granting of privileges to any particular group. Articles 1 and 2 of the Convention authorized States to adopt, if circumstances so required, special measures to ensure the development or protection of certain groups. It was mentioned in paragraph 3 of the annex that Iraq had opposed all attempts to promote confusion between the right of peoples to self-determination and the rights of minorities, particularly since some domineering States had attempted to exploit the issue of minorities in order to compel some developing countries to adopt the political system best suited to their own political interests, by threatening to divide their peoples and fragment their national unity. He emphasized that the Committee did not recognize the right to secession, but would appreciate clarification of the situation of the Kurds in northern Iraq. It was further stated in paragraph 6 of the annex that the Government of Iraq had been forced to withdraw its administration from the region because the United States of America and certain other Western States had interpreted Security Council resolution 688 (1991) in a selective and distorted manner in order to engage

in military intervention on the pretext of protecting the population and providing humanitarian assistance. He asked what the consequences of the intervention had been for the Kurdish people.

17. He wished to know what the Iraqi delegation thought about the effects on the civilian population (Kurdish, Turkoman, etc.) of the intervention by the Iraqi armed forces, as described by the Special Rapporteur of the Commission on Human Rights. He also asked the delegation to account for reports that the property rights of the inhabitants of the autonomous regions were being restricted. He requested oral or written clarification of the internal embargo allegedly imposed on the population of the three governorate in northern Iraq, i.e. essentially the Kurds, the Assyrians, the Turkomans and other ethnic minorities. According to a UNICEF report dated April 1995, 50 per cent of the rural population in central and southern Iraq had no access to drinking water, while the figure for the governorate of Dhi Qar was 90 per cent. He asked whether the disparity was a result of the embargo. Was it true that towns in central Iraq, in particular Tikrit, Samarra and certain parts of Baghdad, enjoyed preferential treatment?

18. According to the United Nations High Commissioner for Refugees, there were still hundreds of thousands of Iraqi refugees abroad, mainly in Iran, Saudi Arabia, Kuwait, Syria, Turkey, Pakistan and Jordan. He asked whether that was correct and whether the Government had taken measures to encourage them to return. Regarding the referendum mentioned in paragraph 17 of the report (CERD/C/240/Add.3), he asked whether the Government had made efforts to ensure the participation of the Kurdish population. He also requested fuller information on the population living in the southern marsh region who, according to the Special Rapporteur, had been subjected to acts of discrimination and harassment in recent years.

19. Regarding the distribution of food and medicines, which should have taken place in conformity with Security Council resolution 986 (1995), it was apparent from the report submitted by the Secretary-General to the Security Council on 10 March 1997 (S/1997/206) that the delay was mainly attributable to United Nations bureaucratic procedures. In any event, he expressed doubt as to the fairness and non-discriminatory character of the current distribution of food and medicines by the authorities. The existing system, which required beneficiaries to be in possession of an identity card, seemed to be working to the disadvantage of the population living in the southern marsh region, who generally had no identity cards. According to the Special Rapporteur, the authorities had refused to issue ration cards to people belonging to certain tribes in the governorate of Basra. Some groups and individuals were allegedly favoured, in particular high-ranking military officers and officials of the party in power.

20. He asked for clarification of the new draft Iraqi Penal Code (CERD/C/240/Add.3, para. 14). The provisions cited in paragraph 36 of the report were not fully in conformity with those of article 4 of the Convention. The Committee should take note of the special economic and social circumstances which Iraq faced because of external factors. Nevertheless, the

information on the implementation of the Convention provided by the Iraqi delegation was insufficient, and much clarification was called for in the light of the data provided by the Special Rapporteur of the Commission on Human Rights.

21. The CHAIRMAN recommended that the members of the Committee should focus their questions on the implementation of the Convention. He invited the Iraqi delegation to reply orally to the most urgent questions, while bearing in mind that more detailed written replies and observations could be included in Iraq's thirteenth and fourteenth periodic reports.

22. Mr. ABOUL-NASR observed that none of the highly critical reports on the situation in Iraq published by WHO, UNICEF and various NGOs took account of the difficulties the country was facing because of the unjust sanctions which had been imposed on the Iraqi people. Regarding the report recently submitted by the Secretary-General of the United Nations to the Security Council (S/1997/206), he asked the Iraqi delegation why the memorandum of understanding concluded subsequent to the adoption of Security Council resolution 986 (1995) had still not been implemented. In his view, what was most disturbing was that the Secretary-General had said neither when, nor to what extent, the memorandum would be implemented, even though Iraqi civilians, and in particular children, were suffering and dying every day. He agreed with the representative of Iraq that slow genocide was under way.

23. He accordingly proposed that, in its concluding observations, the Committee should say that it was committed to respect for Iraq's sovereignty, disturbed at Iraq's inability to implement the Convention in those parts of its territory beyond its sovereignty and concerned at the deterioration in the humanitarian situation. Lastly, the Committee should call for the immediate implementation of the provisions of the memorandum of understanding.

24. Mr. VALENCIA RODRIGUEZ said that because of political and military factors attributable to the Gulf war, the population of Kurdistan, and also the Iraqi population as a whole, were being deprived of their essential rights under the Iraqi Constitution and other legislative instruments. He asked whether the ethnic groups comprising the Turkomans and Syriac-speaking citizens (Assyrians, Chaldeans and members of the East Syrian Church) enjoyed other rights than those mentioned in paragraphs 6 and 7 of the report and whether any other measures had been adopted by the Government to ensure respect for, and the advancement of, their language and culture. He also asked whether those groups could establish cultural organizations, whether, pursuant to article 2 of the Convention, there was any overall policy to combat discrimination and if so, what its fundamental features were.

25. He requested clarification of the regime of autonomy enjoyed by the Kurdistan region (CERD/C/240/Add.3, para. 29). What were the main features of its autonomy? What did it consist of? What were the main organs and functions of the autonomous regional government? Were funds provided solely from the general State budget? Was the President of the Executive Council responsible for other administrative departments?

26. He asked whether the international human rights instruments, and in particular the Convention, to which Iraq had acceded (CERD/C/240/Add.3, para. 33) formed an integral part of domestic legislation and whether it was possible directly to invoke their provisions before the courts. Regarding the implementation of article 4 of the Convention (CERD/C/240/Add.3, para. 36), he inquired whether racist political parties were also prohibited and whether there had been any instances in which the provisions of the article had been implemented. To conclude, he welcomed the fact that criminal proceedings instituted for racial discrimination or racist propaganda could not be halted, suspended or dropped except in the circumstances specified by law (CERD/C/240/Add.3, paras. 65 and 66 (b)).

27. Mr. YUTZIS commended the quality of both the written and oral reports presented by the Iraqi delegation and the explanations provided, which had given him a better understanding of the trying social and humanitarian situation facing the country. He was, however, confused about the meaning, in the Spanish version, of part of paragraph 7 of the report concerning the teaching of Syriac. He asked whether the right to teach Syriac actually existed and was exercised in practice. Nor was it clear from paragraph 30 whether Turkoman writers already effectively enjoyed the right to establish their own association. And paragraph 32 suggested that the right of Syriac-speaking citizens to form cultural and artistic clubs had been granted, rather than recognized, which was what should have been done.

28. According to paragraph 50 of the report, article 25 of the Constitution restricted freedom of religion, belief and worship in the interests of morality and public order. While recognizing that that restriction was no doubt legitimate, he asked whether any code explicitly specified which acts were contrary to the constitutional provisions relating to morality and public order.

29. Mr. van BOVEN said that the sanctions imposed on Iraq under Chapter VII of the Charter represented a heavy and unjust penalty on the Iraqi population and should be reviewed so as to limit their effects on the most vulnerable groups, particularly women and children. As the sanctions were causing hundreds of thousands of victims among Iraqi children, it would be useful for the Committee to determine whether children belonging to specific ethnic groups were particularly effected by the shortage of food and medicines.

30. Since there was often a close link between racial discrimination and the overall economic situation, it would also be useful for the Committee to obtain further information on the status of the autonomous region of Iraqi Kurdistan, and in particular on the provisions relating to the exploitation of natural resources.

31. Referring to the principle of State responsibility, he asked which neighbouring States were responsible for the violations of the rights of the Kurdish people, referred to in paragraph 8 of the annex describing the situation in northern Iraq. He also asked whether Iraq was considering recourse to the procedure provided for under articles 11 to 14 of the Convention in respect of the parties concerned.

32. Lastly, he strongly urged Iraq to ratify the amendment to article 8 (c) of the Convention concerning the funding of the Committee's activities.

33. Mr. CHIGOVERA said, with reference to paragraph 2 of the report, that he would appreciate further information on the level at which the Kurdish people and other minorities were represented in Iraq's central Government. He noted that, according to paragraph 33 of the report, the provisions of the Convention had become an integral part of domestic legislation, and asked the delegation to explain how it was possible in practice to invoke the Convention in order to combat racial discrimination. He asked whether its provisions had been incorporated into national legislation or whether specific legislation had been enacted to implement them.

34. There were still doubts as to how article 4 was implemented in Iraq and, in view of the distinction made in paragraph 47 of the report between religious communities and ethnic minorities, he asked for details of the ethnic composition of the Iraqi population. The Committee would appreciate further information on the religious communities.

35. Mr. de GOUTTES said that, like Mr. Wolfrum, he wished to emphasize that Iraq's population were the helpless victims of an international embargo that had resulted in a catastrophic situation which could only be solved by political means. He endorsed Mr. Aboul-Nasr's proposal that the immediate implementation of the "oil for food" agreement should be recommended, on the understanding that all Iraqis should benefit from it equally and without any kind of privilege.

36. He noted from paragraph 27 of Iraq's report that article 17 of the Constitution, establishing the general principle of non-discrimination, was not substantiated by the provisions of the Penal Code. Current legislation, and articles 200 et seq. in particular, did not seem to satisfy all the requirements of article 4 of the Convention. He accordingly urged Iraq to remedy the situation.

37. Regarding article 6 of the Convention, he hoped that the information provided in paragraphs 65 et seq. of the report would be supplemented in the next report by actual examples of complaints concerning acts of racial discrimination. In view of the multi-ethnic composition of the population, it would be surprising if there had been no such cases. He asked whether the heavier penalties referred to in paragraph 14 of the report also applied to racist offences.

38. Mr. SHAHI associated himself with Mr. de Gouttes' request for Iraq to fully and effectively incorporate article 4 into its legislation. He endorsed the concern expressed by Mr. Aboul-Nasr about the prohibition of medical and humanitarian supplies to Iraq despite the memorandum of understanding signed with the United Nations; there was absolutely no reason to maintain the sanctions since Iraq had accepted Security Council resolutions 706 and 712.

39. He hoped that the Committee would include in its concluding observations concerning the structural difficulties hindering the implementation of the Convention, a request for all parties concerned to authorize the delivery to Iraq of essential humanitarian supplies in order to relieve the suffering of the Iraqi people.

40. Mr. AHMADU said that he was gratified by the quality of the information which the Iraqi delegation had provided to the Committee concerning the obstacles impeding the implementation of all the provisions of the Convention, which the State party was understandably unable to implement in large areas of its territory not under its control. He associated himself with the hopes expressed by the other members of the Committee for rapid removal of the obstacles to the speedy delivery of humanitarian supplies to Iraq, whose population urgently needed them.

41. He inquired whether the term "referendum" used in the report referred to elections. If it did not, that would mean that the Government of Iraq was failing to implement article 5 (c) of the Convention.

42. The provisions of Iraqi legislation on the acquisition of Iraqi citizenship were very favourable. He asked in what circumstances the Ministry of the Interior could withdraw Iraqi citizenship.

43. Mr. LECHUGA HEVIA thanked the Iraqi delegation for the information it had provided to the Committee and, like the other members of the Committee, stressed the inhuman situation unjustly imposed on the Iraqi population. External circumstances were largely responsible for preventing Iraq from implementing all the provisions of the Convention. He supported the proposal to call on the parties concerned to ensure the delivery to Iraq of the medical and food supplies so urgently needed by its population.

44. The CHAIRMAN said that the Committee would continue consideration of the eleventh and twelfth periodic reports of Iraq at its next meeting.

The meeting rose at 1 p.m.